Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Telephone Number Portability	CC Docket No. 95-116

BELL ATLANTIC'S RESPONSE TO PETITIONS FOR RECONSIDERATION

A number of the issues raised by petitioners for the Commission's clarification or reconsideration merit the Commission's attention and action. For example, Bell Atlantic[1] urges the Commission to confirm that WorldCom's understanding of the billing of shared industry costs is correct[2] and to confirm that carriers may use factors to calculate incremental overheads.[3] The Commission should also reconsider its exclusion of general overheads from the costs that can be recovered through the monthly number portability surcharge.[4]

Other petitions should be rejected.

NYDPS. The New York DPS claims that the Commission's national cost recovery plan "could harm consumers and hinder competition."[5] Nothing could be further from the truth. The Commission's simple, nationwide plan ensures that all carriers that have spent money to implement

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1 The Bell Atlantic telephone companies are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

2 WorldCom at 2-10. Similarly, MCI at 7-8.

3 Ameritech at 4-7.

4 Sprint at 1-4; SBC at 4-7; Ameritech at 7-8.

5 NYDPS at 3.

number portability will have a way to recover it and that they can do so in a competitively neutral way. Of course, number portability was required because it was thought it would benefit consumers generally; therefore, it is perfectly reasonable for consumers generally to pay for it. Significantly, no carrier claims that the Commission's overall approach is not competitively neutral.

The NYDPS also claims that the Act does not permit the Commission to authorize an end user surcharge.[6] This is not correct. Section 251(e)(2) instructs the Commission to devise a competitively neutral way for all telecommunications carriers to bear the costs of number portability. All carriers other than incumbent LECs can pass their number portability costs on to their customers virtually any way they choose. In the absence of the surcharge authorized by the Commission, incumbents would have no apparent way to recover their costs. Such a result surely would not be competitive neutral, and it was this competitive disparity the Commission sought to remedy, as required by the statute.

Florida PSC. Unlike NY, the Florida commission does not contest the Commission's jurisdiction. It proposes an amendment to section 52.33 to permit the billing of the end user charge "no sooner than the end users are reasonably able to begin receiving number portability."[7] It does not say what this "reasonably able to begin receiving" standard means or how a carrier is supposed to determine whether it has been met. Nor does it explain whether the carrier is supposed to apply this standard on a customer-by-customer basis, by neighborhood or by city. Whatever the FPSC means by this test or however it intends it to be applied, it is clear that the proposed amendment

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[6] NYDPS at 7-9. The Pennsylvania Office of Consumer Advocate makes a similar claim.

[7] FPSC at 4.

would be an administrative nightmare for carriers which wanted to impose the surcharge and would involve the Commission in countless disputes over whether it was being properly applied. By contrast, the Commission's approach — that carriers may asses the surcharge on customers who are served by end offices that are capable of providing number portability — is straightforward and relatively easy to administer.

Comcast. Comcast asks the Commission to "confirm" that the Commission has "reject[ed] the concept of any intercarrier recovery mechanism in favor of an end-user charge . . . ."[8] This broad statement is contradicted by the words of the Commission's new rules, as section 52.33(a)(1)(B) permits imposition of the monthly surcharge on "*carriers* that purchase the incumbent local exchange carrier's switching ports as unbundled network elements under section 251 of the Communications Act, and *resellers* of the incumbent local exchange carrier's local service." In addition, of course, section 52.33(a)(2) authorizes number portability database query charges, which will be paid by carriers, not by end users. In the proceedings on database query service tariffs, Comcast offered a variety of specious arguments as to why it should not have to pay these charges, and it appears to be attempting to achieve the same result here. The Commission should make it clear that when Bell Atlantic does a number portability database lookup to complete a call originated by a Comcast customer, Comcast must pay the query charge.

MCI. The Commission has determined that shared industry costs should be divided among carriers based on their retail revenues. This approach is perfectly reasonable, distributes these costs fairly and is easy to administer. MCI asks the Commission to change this allocation formula and to exclude revenues from private line, toll free, international and virtual private network services

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[8] Comcast at 4.

because they do not use numbering resources.[9] While there is some logic to MCI's suggestion, the Commission should reject it. If the Commission starts down this path, then every provider would want to exclude other revenues too. For example, exchange carriers would, perfectly reasonably, argue that revenues from certain vertical services should not be included either, as they do not use numbering resources. The end result would probably be little change in how much any carrier paid, with a great deal of extra bookkeeping.

MCI also asks the Commission to "clarify" that surcharges collected from carriers and resellers under section 52.33(a)(1)(B) are to be calculated according to TELRIC or avoided cost methodologies.[10] If MCI is suggesting that surcharges on these lines should be calculated differently than surcharges on services bought by end users, then the words of the regulation disprove MCI's claim. The rule states that the incumbent LEC is permitted to collect "the same charges [from carriers and resellers] as described in subparagraph (a)(1)(A), as if the incumbent local exchange carrier were serving those carriers' end users."

Moreover, it would be inconsistent with the requirements of section 251(e)(2) to calculate the surcharge one way for lines bought by the LEC's own end user customers and a different way for lines and ports bought for another carrier's customers. Different charges, as proposed by MCI, would plainly not be competitively neutral.

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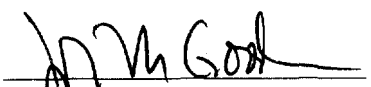
[9] MCI at 3-6. This suggestion by MCI seems at odds with the request later in its petition that carriers not be required to develop new accounting and reporting systems for these purposes. MCI at 8-9.

[10] MCI at 7-8.

Conclusion

For the reasons stated above, the Commission should reject these petitions for reconsideration.

Respectfully submitted,



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